



# DELTA STEWARDSHIP COUNCIL

*A California State Agency*

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## **RE: Rush Ranch Habitat Restoration, Facility Improvements, and Site Utilization Project, Draft Initial Study and Mitigated Negative Declaration, SCH# 2015082073**

Dear Ms. Ferrario:

Thank you for the opportunity to comment on the Initial Study and Mitigated Negative Declaration (ISMND) for the Rush Ranch Restoration, Facility Improvements, and Site Utilization Project (hereafter referred to as the "Rush Ranch Restoration Project"). As you know, the Delta Stewardship Council (Council) through the Delta Reform Act was granted specific regulatory and appellate authority over certain actions that take place in whole or in part in the Delta and Suisun Marsh; the Council exercises this authority through the development and implementation of the Delta Plan.

We appreciated the opportunity to meet with you in May 2015, along with Steve Kohlmann (Solano Land Trust) and Stuart Siegel (consultant for Solano Land Trust). During this meeting, we talked about the scope of the Rush Ranch Restoration Project and discussed relevant Delta Plan regulatory policies, as well as the process of filing a certification of consistency with the Delta Plan, if Solano County determines that the project is a "covered action" subject to Delta Plan regulations (Water Code Section 85225). Below we have summarized Delta Plan regulations that are most applicable to this project, as well as noting relevant Delta Plan recommendations and providing comments on the ISMND.

### **1. Delta Plan Regulations**

#### *Best Available Science and Adaptive Management*

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*"Coequal goals" means the two goals of providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem. The coequal goals shall be achieved in a manner that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place."*

*– CA Water Code §85054*

Delta Plan Policy **G P1** (23 CCR Section 5002) states that covered actions must document the use of best available science. Best available science should be consistent with the criteria listed in the table in Appendix 1A of the Delta Plan regulations (<http://deltacouncil.ca.gov/docs/appendix-1a>), including relevance, inclusiveness, objectivity, transparency and openness, timeliness and peer review. This policy also calls for ecosystem restoration projects to include adequate provisions for continued implementation of adaptive management, appropriate to the scope of the action. This requirement can be satisfied through the development of an adaptive management plan that is consistent with the framework described in Appendix 1B of the Delta Plan (<http://deltacouncil.ca.gov/docs/appendix-1b>), along with documentation of adequate resources to implement the proposed adaptive management process. Council staff from the Delta Science Program can provide consultation regarding documentation of use of best available science and preparation of an adaptive management plan.

### *Habitat Restoration*

Delta Plan Policy **ER P2** (23 CCR Section 5006) states that habitat restoration must occur at appropriate elevations, using Appendix 4 of the Delta Plan as a guide, and be consistent with Appendix 3 of the Delta Plan regulations, which is an excerpt from the 2011 Draft Ecosystem Restoration Program Conservation Strategy. The ISMND describes multiple efforts to improve habitat conditions on Rush Ranch, including restoration of tidal flows to Goat Island; creation and enhancement of wetland complexes along Suisun Hill Hollow and Spring Branch Creek; and re-establishing habitat connectivity and more natural flow patterns along Suisun Hill Hollow and Spring Branch Creek through removal of impoundment berms. The project appears to be consistent with Appendix 3, which outlines a vision to protect and restore functional habitat types in the Delta. For example, Appendix 3 describes the need to protect valuable habitats through the establishment of a corridor of protected agricultural and natural lands, and for properly functioning tidal marsh habitats to have subtidal channels that link to lower-order intertidal channels which dissect the marsh plain.

### *Invasive Species*

Nonnative species are a major obstacle to successful restoration because they affect the survival, health, and distribution of native wildlife and plant species. Although there is little chance of eradicating most established nonnative species, management can be designed to reduce their abundance. Delta Plan Policy **ER P5** (23 CCR Section 5009) states, "The potential for new introductions of or improved habitat conditions for nonnative invasive species, striped bass, or bass must be fully considered and avoided or mitigated in a way that appropriately protects the ecosystem."

According to the ISMND, Goat Island is already infested with invasive common reed (*Phragmites australis*), and the area along the lower Spring Branch Creek has patches of nonnative perennial pepperweed (*Lepidium latifolium*). We recommend that actions to address the common reed invasion on Goat Island occur prior to breaching the exterior levee, because

once full tidal action is restored to Goat Island, it will be extremely challenging to later control the patches of common reed. To the maximum extent practicable, the restoration activities at Rush Ranch should avoid or minimize effects that would lead to improved conditions for nonnative invasive species populations on site before relying upon mitigation measures. In the event mitigation is necessary, we recommend following the mitigation measures provided in the Delta Plan Program EIR (see below for more details).

### *Respect Local Land Uses*

Delta Plan Policy **DP P2** (23 CCR Section 5011) calls for habitat restoration projects to avoid or reduce conflicts with existing land uses and to consider comments from local agencies and the Delta Protection Commission. The ISMND addresses several issues regarding protecting existing land uses, including the assessment of the regional impacts on salinity in the Suisun Marsh from re-establishment of tidal flows to Goat Island, constructing livestock watering infrastructure to help maintain the use of Rush Ranch as grazing pasture, and maintaining public access to the Goat Island marsh. Analyses from the ISMND may be used to demonstrate consistency of the project with DP P2.

### *Mitigation Measures*

Delta Plan Policy **G P1** (23 CCR Section 5002) requires that actions not exempt from CEQA and subject to Delta Plan regulations must include applicable feasible mitigation measures consistent with or more effective than those identified in the Delta Plan EIR (These mitigation measures can be found in the Delta Plan Mitigation and Monitoring Reporting Program (MMRP) document available at [http://deltacouncil.ca.gov/sites/default/files/documents/files/Agenda%20Item%206a\\_attach%202.pdf](http://deltacouncil.ca.gov/sites/default/files/documents/files/Agenda%20Item%206a_attach%202.pdf)).

One mitigation measure we recommend you include in the ISMND's MMRP is the Delta Plan Program EIR's **Biological Resources Mitigation Measure 4-1**, which calls for an invasive species management plan to be developed and implemented for any projects that could lead to introduction or facilitation of invasive species establishment. The plan must ensure that invasive plant species and populations are kept below preconstruction abundance and distribution levels and be based on best available science and developed in consultation with Department of Fish and Wildlife and local experts (e.g., UC Davis, California Invasive Plant Council). This mitigation requirement also calls for the plan to include the following elements:

- Nonnative species eradication methods (if eradication is feasible)
- Nonnative species management methods
- Early detection methods
- Notification requirements
- Best management practices for preconstruction, construction, and post construction periods
- Monitoring, remedial actions and reporting requirements

- Provisions for updating the target species list over the lifetime of the project as new invasive species become potential threats to the integrity of the local ecosystems

Additionally, we suggest you considering including Delta Plan **Recreation Mitigation Measure 18-2**, which states the following:

- If substantial temporary or permanent impairment, degradation, or elimination of recreational facilities causes users to be directed towards other existing facilities, lead agencies shall coordinate with impacted public and private recreation providers to direct displaced users to under-utilized recreational facilities
- Lead agencies shall provide additional operations and maintenance of existing facilities in order to prevent deterioration of these facilities
- If possible, lead agencies shall provide temporary replacement facilities
- If the increase in use is temporary, once use is decreased back to existing conditions, degraded facilities shall be rehabilitated or restored.
- Where impacts to existing facilities are unavoidable, compensate for impacts through mitigation, restoration, or preservation off-site or creation of additional permanent new replacement facilities.

## **2. Delta Plan Recommendations**

### *Prioritize and Implement Projects that Restore Delta Habitat*

Delta Plan Recommendation **ER R2** calls for habitat restoration projects to be prioritized and implemented in the six areas designated by the Delta Plan as priority habitat restoration areas (PHRAs). One of these areas is the Suisun Marsh, where Rush Ranch is located, and a region where ER R2 calls for significant restoration of brackish marsh to support native species. We believe that Solano Land Trust's effort to restore tidal marsh to Goat Island helps support implementation of ER R2, and will help to benefit multiple native species, including salmonids and smelt.

### *Provide New and Protect Existing Recreation Opportunities*

The Council recommends protecting and improving existing recreation opportunities while seeking ways of providing new and better coordinated opportunities. Delta Plan Recommendation **DP R11** calls for providing new and protecting existing recreational opportunities in the Delta and Suisun Marsh. Although the project will result in permanent loss of a portion of the Marsh Trail that goes along the perimeter of Goat Island, the ISMND states that the project's current design includes constructing a boardwalk and viewing platform into the restored tidal marsh habitat as well as installation of new interpretive signs. We appreciate Solano Land Trust's effort to maintain and improve public access to restoration areas and other natural lands within its Rush Ranch property.

### 3. Comments on the ISMND

The ISMND should discuss any inconsistencies between the proposed plan and the Delta Plan, as required by 15125(d) of the CEQA Guidelines. Please note that the CEQA guidelines' Appendix G states that a project that is inconsistent with any applicable land use plan, policy, or regulations may result in a finding of significant impact on biological resources. The ISMND currently contains an assessment of alignment between the San Francisco Bay Plan and the Suisun Marsh Local Protection Plan with the proposed project. The draft ISMND though currently does not mention the Delta Plan and the need for the project to be consistent with its regulatory policies; we suggest this issue be addressed in the revised ISMND. In addition, as discussed above, we recommend that Solano County incorporate relevant mitigation measures from the Delta Plan's MMRP into the final ISMND.

### Final Remarks

Overall, we are supportive of the plan to implement multiple habitat restoration projects across Rush Ranch, including re-establishment of full tidal action to Goat Island. We look forward to working with Solano County and the Solano Land Trust on this project. I encourage you to contact Maggie Christman at [Maggie.Christman@deltacouncil.ca.gov](mailto:Maggie.Christman@deltacouncil.ca.gov) with any questions regarding the use of best available science and adaptive management, and contact Daniel Huang at [Daniel.Huang@deltacouncil.ca.gov](mailto:Daniel.Huang@deltacouncil.ca.gov) for any other questions regarding Delta Plan consistency.

Sincerely,



Cindy Messer  
Deputy Executive Officer  
Delta Stewardship Council

CC: Steve Kohlmann, Solano Land Trust